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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,015	05/23/2001	Charles P. Tresser	CHA920010005US1	9978

23550 7590 10/23/2006

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EXAMINER

GREIMEL, JOCELYN

ART UNIT	PAPER NUMBER
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3693

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/864,015	<b>Applicant(s)</b> TRESSER ET AL.	
	<b>Examiner</b> Jocelyn Greimel	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. The following is a Final Office Action in response to Applicant's Remarks of August 08, 2006. Claims 1-34 are pending. Claims 1, 11, 15, 25 and 34 are independent claims.

### ***Response to Arguments***

2. Applicant's arguments regarding claims 1-34, including:
- a. "each of the orders includes a timestamp from one of a plurality of agents in the network"
  - b. "qualifying orders using a time analysis system"
  - c. "a time analysis that examines each order submitted during a current trading interval to determine if the submitted order qualifies for the call auction at the end of the current trading interval"
  - d. "the system executes a series of call auctions during sequential trading intervals"

have been fully considered but they are not persuasive.

3. Issue no. (a): Applicant's argue: Madoff does not teach: each of the orders includes a timestamp from one of a plurality of agents in the network as recited in the claims. Response: The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

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Claim Interpretation; Broadest Reasonable Interpretation:

**<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

Madoff does disclose each order including a timestamp from one of a plurality of agents in the network. **Madoff teaches a timestamp from an agent of the network.** The number of agent or agents employed in timestamping the order is a business choice. (Madoff, page 6, 0055-0057). Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant's are respectfully requested to point out to the Examiner which claim limitations in the claims are considered to be the inventive concept because the inventive concept can not be determined from the claim limitations as written.

4. Issue no. (b) and (c): Applicant's argue: Madoff does not teach: qualifying orders and determining if orders can be executed using a time analysis system as recited in the claims and a time analysis that examines each order submitted during a current trading interval to determine if the submitted order qualifies for the call auction at the end of the current trading interval. Response: The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

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Claim Interpretation; Broadest Reasonable Interpretation:

**<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

Madoff does disclose qualifying orders using a time analysis system. **Madoff teaches qualifying orders using an order acceptance process system and this system additionally has a lock-in period, which can be seen as a time analysis system.** (Madoff, page 5, 0043-0046). Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant's are respectfully requested to point out to the Examiner which claim limitations in the claims are considered to be the inventive concept because the inventive concept can not be determined from the claim limitations as written.

5. Issue no. (d): Applicant's argue: Madoff does not teach: the system executes a series of call auctions during sequential trading intervals as recited in the claims. Response: The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

Claim Interpretation; Broadest Reasonable Interpretation:

**<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification."

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Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

Madoff does disclose the system executes a series of call auctions during sequential trading intervals. **Madoff teaches call auctions which could be replicated during sequential trading periods.** (Madoff, page 1, 0014-0015; page 2, 0016-0017).

Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant's are respectfully requested to point out to the Examiner which claim limitations in the claims are considered to be the inventive concept because the inventive concept can not be determined from the claim limitations as written.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached at (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
October 16, 2006

  
ELLA COLBERT  
PRIMARY EXAMINER